

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Donald Sanchez,

Plaintiff,

v.

Liberty Power Illinois LLC,

Defendant.

:
: Civil Action No.: 1:13-cv-02962
:

: **COMPLAINT**
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For this Complaint, Plaintiff, Donald Sanchez, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendants transact business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

4. Plaintiff, Donald Sanchez (hereafter "Plaintiff"), is an adult individual residing in San Francisco, California, and is a "person" as defined by 47 U.S.C. § 153(10).
5. Defendant, Liberty Power Illinois LLC ("Liberty Power"), is an Illinois business entity with an address of 800 West Cypress Creek Road, Suite 330, Fort Lauderdale, Florida 33309, and is a "person" as defined by 47 U.S.C. § 153(10).

FACTS

6. Beginning in or around April 2013, Defendant began placing calls to Plaintiff's

cellular telephone through an automated telephone dialer system (“ATDS”) and/or by using an artificial or prerecorded voice.

7. When Plaintiff answered the calls from Defendant, he heard a prerecorded message offering electric services.

8. Plaintiff never provided his cellular telephone number to Defendant and never provided consent to Defendant to be contacted on his cellular telephone.

9. During conversations with Defendant, Plaintiff advised Defendant that he was not interested in Defendant’s services and directed Defendant to remove his number from its database.

10. Nonetheless, Defendant thereafter placed two additional calls to Plaintiff’s cellular telephone.

11. The telephone number called by Defendant was assigned to a cellular telephone service as provided by 47 U.S.C. § 227(b)(1).

12. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT,
47 U.S.C. § 227, et. seq.

13. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. Without prior express consent Defendants contacted Plaintiff by means of automatic telephone calls and/or prerecorded messages on his cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii). As such, each call placed to Plaintiff is a knowing and/or willful

violation of the TCPA, and is therefore subject to treble damages of \$1,500.00 per call pursuant to 47 U.S.C. § 227(b)(3)(C).

15. In the alternative, as a result of each negligent call made in violation of the TCPA, Plaintiff is entitled to an award of \$500.00 for each call pursuant to 47 U.S.C. § 227(b)(3)(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: April 19, 2013

Respectfully submitted,

By /s/ Sergei Lemberg

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